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APR 17 2006

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U.S. COURT OF APPEALS

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANIEL LAMBERT, Plaintiff - Appellant, v. DOUGLAS G. LEHINGER, Defendant - Appellee.	No. 05-35396 D.C. No. CV-04-00085-FVS MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Fred L. Van Sickle, Chief Judge, Presiding

Submitted April 5, 2006**

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Daniel Lambert appeals pro se from the district court's order affirming a bankruptcy court's order dismissing his adversary complaint for failure to effect timely service of process. We have jurisdiction under 28 U.S.C. § 158(d). We review de novo the district court's decision on appeal from a bankruptcy court,

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* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Dawson v. Washington Mut. Bank, F.A. (*In re Dawson*), 390 F.3d 1139, 1145 (9th Cir. 2004), and review for abuse of discretion the dismissal of a complaint for failure to effect timely service, *Oyama v. Sheehan* (*In re Sheehan*), 253 F.3d 507, 511 (9th Cir. 2001). We affirm.

The bankruptcy court did not abuse its discretion in dismissing Lambert's complaint and declining to extend the 120-day period for effecting service, because Lambert did not demonstrate that the personal representative of Lehinger's estate received actual notice of the complaint. *See id.* at 512 (a plaintiff seeking to show good cause for extending the time limit for service may be required to show that the party to be served received actual notice).

The bankruptcy court also did not abuse its discretion in declining to extend the service period on its own initiative. *See* Fed. R. Civ. P. 4(m). Lambert admittedly made no attempt to effect service, and his then-counsel was expressly informed of the need to do so at the scheduling conference on November 24, 2003–almost two months before the 120-day period expired. *See In re Sheehan*, 253 F.3d at 513 (noting court's "broad" discretion under Rule 4(m)).

AFFIRMED.